

PT 03-8

Tax Type: Property Tax

Issue: Religious Ownership/Use

**STATE OF ILLINOIS
DEPARTMENT OF REVENUE
OFFICE OF ADMINISTRATIVE HEARINGS
CHICAGO, ILLINOIS**

**SOULED OUT
MINISTRIES,
APPLICANT**

v.

**ILLINOIS DEPARTMENT
OF REVENUE**

**No. 01-PT-0077
(00-16-1659)
P.I.N: 03-32-226-001**

RECOMMENDATION FOR DISPOSITION

APPEARANCES: Mr. Bruce D. Strom, on behalf of Souled Out Ministries (the “Applicant”); Mr. Marc Muchin, Special Assistant Attorney General, on behalf of the Illinois Department of Revenue (the “Department”).

SYNOPSIS: This matter presents the issue of whether real estate identified by Cook County Parcel Index Number 03-32-226-001 (the “subject property”), was “used exclusively for religious purposes,” as required by Section 15-40 of the Property Tax Code (35 ILCS 200/1-1, *et seq.*) during the 2000 assessment year. The underlying controversy arises as follows:

Applicant filed a Real Estate Exemption Complaint with the Cook County Board of Review (the “Board”) on March 14, 2001. The Board reviewed this application and recommended to the Department that the requested exemption be denied. On August 30, 2001, the Department issued a determination denying said exemption on grounds of lack of exempt use. Applicant filed an appeal to this denial and later presented evidence at a

formal evidentiary hearing. Following a careful review of the record made at that hearing, I recommend that the Department's initial determination in this matter be reversed.

FINDINGS OF FACT:

1. The Department's jurisdiction over this matter and its position therein are established by Dept Group Ex. Nos. 1, 2.
2. The Department's position in this matter is that the subject property is not in exempt use. Dept. Ex. No. 2.
3. The subject property is located in Arlington Heights, IL and improved with a three story residential facility. Dept. Ex. No. 1.
4. Applicant is a non-denominational Christian youth ministry that targets underprivileged and/or at risk youth. Applicant Ex. Nos. 3, 4; Tr. pp. 21-22; 24, 40.
5. Applicant's ministry is modeled on the type of discipleship practiced by Jesus, which focuses on building relationships through individualized mentoring. Tr. pp. 25, 55-56.
6. Applicant's by-laws provide, *inter alia*, that:
 - A. Its "spiritual prerogatives" include, but are not limited to establishing, edifying and enlarging a body of Spirit-filled believers that will: (i) glorify the Lord Jesus Christ; (ii) advance the Kingdom of G-D; (iii) provide a redemptive influence in the world around them; and, (iv) prepare the next generation to do the same;
 - B. Its corporate philosophy is, based on I Peter 2:5, 9, that the body of Christ is to be a kingdom of priests. Therefore, every member of the church should be actively engaged in: (i) ministering to the Lord in worship, praise and stewardship of his or her respective tithes and talents; (ii) ministering to each other through fellowship, mutual edification, personal ministry and practical service; and, (iii) ministering to the world through evangelism, benevolence and other acts of service.

Applicant Ex. No. 4.

7. Applicant obtained ownership of the subject property by means of a warranty deed dated November 17, 1997. Applicant Ex. No. 1.
8. The subject property is located two miles west of applicant's main church facility. Dept. Ex. No. 3; Tr. p. 37.
9. The Department exempted applicant's main church facility from real estate taxation pursuant to the Determination in docket no. 96-16-1209, issued by the Office of Local Government services on March 12, 1998. Dept. Ex. No. 1-B; Administrative Notice.
10. Applicant uses the subject property to provide rent-free housing for those participating in its internship program, through which applicant plans and implements its youth programming. Tr. pp. 18-19, 22, 26-27, 37, 40-41, 70.
11. Applicant actually housed six interns, and two house parents who supervised the intern's activities, at the subject property during the 2000 assessment year.¹ Tr. pp. 19-20, 28, 44.
12. The internship program provides high school graduates and/or college students ages 18 to 24 with practical experience and evangelical training within the context of applicant's youth ministry. Applicant Group Ex. No. 6; Tr. pp. 19-20, 33, 36.
13. Some of applicant's interns come from countries outside the United States; others are actively engaged in studying for the ministry at local Christian colleges. Tr. pp. 20-21, 33, 41.
14. Applicant requires the interns to live at the subject property. It imposes this requirement so that the interns can develop a sense of community, which applicant

1. The uses described in this and all subsequent Finding of Fact shall be understood to be uses occurring during the 2000 assessment year unless context clearly specifies otherwise.

believes is essential to a church, and maintain a centralized location for their ministerial activities. Tr. pp. 28, 38-39.

15. On rare occasions, applicant will need to find alternative lodgings for an intern because he or she has arrived at a time when the house is already full. However, this happens only when interns from foreign countries, whose availability is subject to strict arrival and departure schedules that applicant can not control, arrive while other interns are in residence. Tr. pp. 36, 50-51, 61.
16. Applicant finds alternative lodgings for any intern that it can not house at the subject property due to lack of space. Tr. pp. 59-61.
17. Applicant selects interns through a rigorous application and interview process, which consists of submitting a written application, an autobiography and four references. Applicant Group Ex. No. 6.
18. Applicant checks all references, and interviews each prospective intern twice, in order to receive assurances about the moral integrity and character of each candidate. Tr. p. 35.
19. Applicant requires each intern to make a time commitment of no less than six months and no more than a year. It also expects each intern to abide by program requirements that include, *inter alia*,:
 - A. Following a regular exercise program;
 - B. Participating in mandatory house meetings on a weekly basis;
 - C. Completing all assigned study assignments on schedule;
 - D. Adhering to rules and regulations for personal conduct that: (i) require complete abstinence from alcohol and other mood-altering drugs; (ii) strictly prohibit

romantic involvement of any kind with any other person during the internship period; (iii) forbid the use of profanity; (iv) require a daily commitment to prayer and Bible study; and, (v) reflect strong Christian values in all facets of the intern's life.

E. Assuming one's fair share of the responsibility for housekeeping chores.

Id.

20. Each intern has an individualized job description within the overall internship program. Each job description is tailored to the individual intern's talents, abilities and interests. Tr. pp. 31, 62-63, 71-73.

21. All job descriptions include ongoing responsibilities within applicant's ministry, such as supervising youth-led Bible study groups and discipleship mentoring.² *Id*

22. Each intern is assigned between three and four high school age students to mentor.
Tr. p. 31.

23. Activities within each mentoring relationship vary according to individual needs but include Bible study, homework help and guidance with interpersonal relationships.
Id; Tr. pp. 55-56.

24. The schedule of daily activities for interns residing at the subject property is as follows:

Day	Prescribed Activity(ies)
• Monday	• Off day for all interns.
• Tuesday through Friday Mornings	• Structured time devoted to instruction in prayer, Bible study or other aspects of ministry.

2. See, Findings of Fact 2, 3.

<ul style="list-style-type: none"> Tuesday through Friday Afternoons (Traditional School Hours) 	<ul style="list-style-type: none"> Free time that can be devoted to housekeeping chores or working on scheduled assignments.
Day (Cont'd).	Prescribed Activity(ies)
<ul style="list-style-type: none"> Tuesday through Thursday Evenings (Traditional After School Hours) 	<ul style="list-style-type: none"> Time devoted to carrying out ministry assignments, such as advising Bible study groups or overseeing prayer sessions and outreach programs.
<ul style="list-style-type: none"> Friday nights 	<ul style="list-style-type: none"> Participating in open house or other outreach programs at applicant's main church facility.
<ul style="list-style-type: none"> Saturdays 	<ul style="list-style-type: none"> Preparation for main weekly prayer service, which takes place at applicant's church on Saturday evenings.
<ul style="list-style-type: none"> Sundays 	<ul style="list-style-type: none"> Mentoring and/or individualized meetings with youth under the intern's tutelage.

Tr. pp. 28-31; 44-57.

CONCLUSIONS OF LAW:

Article IX, Section 6 of the Illinois Constitution of 1970 provides as follows:

The General Assembly by law may exempt from taxation only the property of the State, units of local government and school districts and property used exclusively for agricultural and horticultural societies, and for school, religious, cemetery and charitable purposes.

Pursuant to Constitutional authority, the General Assembly enacted Section 15-40 of the Property Tax Code, 35 **ILCS** 200/1-1 *et seq*, wherein the following are exempted from real estate taxation:

200/15-40. Religious purposes, orphanages, or school and religious purposes

All property used exclusively for religious purposes, or used exclusively for school and religious purposes, or for orphanages and not leased or otherwise used with a view to a profit, is exempt, including all such property owned by churches or religious institutions or denominations and used in conjunction therewith as housing facilities provided

for ministers (including bishops, district superintendents, and similar church officials whose ministerial duties are not limited to a single congregation), their spouses, children and domestic workers, performing the duties of the vocation as ministers at such churches or religious institutions or for such religious denominations, and including the convents and monasteries where persons engaged in religious activities reside.

A parsonage, convent, or monastery or other housing facility shall be considered under this Section to be exclusively used for religious purposes when the church, religious institution or denomination requires that the above-listed persons who perform religious related activities shall, as a condition of their employment or association, reside in the facility.

35 ILCS 200/15-40.

Statutes conferring property tax exemptions are to be strictly construed so that all factual and legal inferences favor taxation. People ex rel. Nordland v. Home for the Aged, 40 Ill.2d 91 (1968); Gas Research Institute v. Department of Revenue, 154 Ill. App.3d 430 (1st Dist. 1987). Consequently, any doubts or debatable questions as to whether property falls within a given statutory exemption provision must be resolved in favor of taxation. *Id.*

In this case, the relevant statute requires that the property in question be “used exclusively for religious purposes.” 35 ILCS 200/15-40. The word “exclusively” when used in Section 200/15-40 and other property tax exemption statutes means the “the primary purpose for which property is used and not any secondary or incidental purpose.” Pontiac Lodge No. 294, A.F. and A.M. v. Department of Revenue, 243 Ill. App.3d 186 (4th Dist. 1993). As applied to the uses of property, a religious purpose means “a use of such property by a religious society or persons as a stated place for public worship, Sunday schools and religious instruction.” People ex rel. McCullough v. Deutsche

Evangelisch Lutherisch Jehova Gemeinde Ungeandeter Augsburgischer Confession, 249 Ill. 132, 136-137 (1911).

The specific “religious purpose” at issue herein is that of a parsonage. The statutory requirements for the exemption of a parsonage are that the property must be: (a) owned by a duly qualified religious institution; and, (b) used as a housing facility for clergy employed by or associated with that religious institution; and, (c) occupied by clergy who must reside in the facility as a condition of employment or association. 35 ILCS 200/15-40; McKenzie v. Johnson, 98 Ill.2d 87 (1983). Only the last two requirements are at issue herein, as the Department’s denial was based strictly on lack of exempt use. Dept. Ex. Ex. No. 2.

Applicant contends that the use issues raised herein are similar to those analyzed in Evangelical Alliance Mission v. Department of Revenue, 164 Ill. App.3d 431 (2nd Dist., 1987). There, the court held in favor of exempting an apartment complex that the appellee Mission, a Christian missionary agency, used as housing for furloughed missionaries. *Id.* at 433-434.

All of the furloughed missionaries were either ordained ministers or commissioned as ministers by the various Baptist, Methodist and Presbyterian churches from which the Mission drew its membership. *Id.* at 431. The Mission did not compel any of its missionaries to live at the complex during their furloughs, although it did require each of its missionaries to take a furlough after completing three to five years of field work. *Id.* at 434-435. Each furlough lasted between twelve and eighteen months, during which the missionary could receive additional theological education, counsel

college students considering missionary careers or pursue other work within the Mission's ministry. *Id.*

Approximately 200 of the Mission's 1,100 missionaries were on furlough at any given time. The Mission attempted to provide all furloughed missionaries with housing at the apartment complex. However, some furloughed missionaries elected not to stay there because they opted for housing provided by local churches. *Id.*

The statute under which the Mission sought to exempt the apartment complex provided, *verbatim*, as follows:

All property used exclusively for religious purposes, or used exclusively for school and religious purposes, or for orphanages and not leased or otherwise used with a view to profit, including all such property owned by churches or religious institutions or denominations and used in conjunction therewith as parsonages or other housing facilities provided for ministers (including bishops, district superintendents and similar church officials whose ministerial duties are not limited to a single congregation), their spouses, children and domestic employees, performing the duties of their vocation as ministers at such churches or religious institutions or for such religious denominations, including convents and monasteries where persons engaged in religious activities reside.”

Ill Rev. Stat. 1981, ch. 120, ¶ 500.2;³ Evangelical Alliance Mission, *supra* at 439-440.

The Department contended that the apartment complex did not qualify for exemption under this provision because it applied “only to residences of ecclesiastical employees of a local parish or congregation who are required by their duties to live there.” Evangelical Alliance Mission, *supra*, at 441. The court, however, disagreed on

3. In order to place this provision in its proper historical context, I briefly note that the language providing for the exemption of parsonages was first added in a 1957 amendment to the “general religious purposes” exemption statute. *See*, 1957 Ill. Laws 614 (cited in McKenzie v. Johnson, 98 Ill.2d at 94).

grounds that neither the applicable constitutional provision⁴ nor the “general religious purposes exemption statute,” quoted above, specifically required that the housing be for an employee. *Id.*

Public Act 83-1250, passed by the General Assembly on June 24, 1984 and effective August 9, 1984, amended the “general religious purposes exemption statute” by adding the following paragraph to the end of that provision:

A parsonage, convent or monastery shall be considered for purposes of this Section to be exclusively used for religious purposes when the church, religious institution or denomination requires that the above-listed persons [i.e. ministers, bishops, and similar church officials whose ministerial duties are not limited to a single congregation], who perform religious related activities shall, as a condition of their employment or association, reside in such parsonage, convent or monastery.

It is a well established that the issue of property tax exemption will depend on statutory provisions in force at the time for which the exemption is claimed. People ex rel Bracher v. Salvation Army, 305 Ill. 545 (1922). It is equally well settled that: (a) where a general provision and a specific provision that both relate to the same subject exist, either in the same or another statute, the specific provision controls and should be applied (Tivoli Enterprises v. Zehnder, 297 Ill. App.3d 125 (2nd Dist. 1998); Illinois Power Company v. Mahin, 49 Ill. App. 3d 713 (4th Dist. 1977), *aff'd*. 72 Ill. 2d 189 (1978)); and, (b) exemption statutes are to be strictly construed, with all doubts and debatable questions resolved in favor of taxation. People ex rel. Nordland v. Home for the Aged, 40 Ill.2d 91 (1968); Gas Research Institute v. Department of Revenue, 154 Ill. App.3d 430 (1st Dist. 1987).

4. Article IX, Section 6 of the Illinois Constitution of 1970.

The religious purposes exemption statute in force for the tax year currently in question, 2000, is contained in Section 15-40 of the Property Tax Code, 35 **ILCS** 200/1-1, *et seq.* Section 15-40 differs from the exemption statute at issue in Evangelical Alliance Mission, *supra*, because it incorporates the substance of Public Act 83-1250 into its text. This text specifically states, in relevant part, that: (a) the clergy person must have either an employment relationship or an association with the religious institution; and, (b) the religious institution “shall” require the clergy person to reside in the facility as a condition of the clergy person’s employment or association with the religious association. 35 **ILCS** 200/15-40.

The Evangelical Alliance Mission court was not bound to apply this provision because it was not in effect for the tax year at issue in that case, 1982. Evangelical Alliance Mission, *supra* at 439. Therefore, reliance on this case is misplaced.

The facts pertinent to the application of the pertinent statutory provisions are as follows: (a) applicant qualifies as a “religious institution” by virtue of its being organized as a Christian missionary organization (Applicant Ex. Nos. 3,4); (b) applicant held a valid ownership interest in the subject property throughout the tax year in question, 2000 (Applicant Ex. No. 1); (c) the subject property was occupied by no one other than applicant’s interns, and the house parents who supervised the interns’ activities, throughout 2000 (Tr. pp. 19-20, 28, 44); (d) those who resided in the subject property throughout 2000 had an “association” with applicant’s ministry by virtue of their participation in, or supervision of, applicant’s internship program; (e) those who participated in applicant’s internship program during 2000: (i) engaged in prayer, Bible studies and other “religious” type activities while they resided at the subject property;

and, (ii) were subject to very strict house rules that effectively prohibited them from engaging in activities or conduct that did not further the missionary purposes of their internships; (Applicant Ex. No. 6); and, (f) applicant required that its interns live at the at the subject property throughout the duration of their internships. (Applicant Ex. No. 6; Tr. pp. 28, 38-39).

The Department questions whether the interns were in fact required to live at the subject property because there were instances where at least one intern did not reside there. However, those instances were limited to situations wherein the number of interns participating in applicant's internship program at a given point in time exceeded the actual, physical space that applicant had available to house the interns at the subject property. (Tr. pp. 36, 50-51, 61). Under these very limited circumstances, then, I reject the Department's proposed application of the statutory residency requirement to the particular facts presented herein as being more restrictive than intended by the legislature.

The Department further questions whether the subject property is in exempt use because applicant does not accept all who apply into its internship program. This argument is based on criteria established for the exemption pertaining to "institutions of public charity," which is found in Section 15-65(a) of the Property Tax Code, 35 **ILCS** 200/15-65(a). These criteria provide, in relevant part, that an "institution of public charity"⁵ must make the "charity"⁶ it dispenses available to "all who need and apply for

5. In order to qualify as an "institution of public charity," an entity must: (1) have no capital stock or shareholders; (2) earn no profits or dividends, but rather, derive its funds mainly from public and private charity and hold such funds in trust for the objects and purposes expressed in its charter; (3) dispense charity to all who need and apply for it; (4) not provide gain or profit in a private sense to any person connected with it; and, (5) not appear to place obstacles of any character in the way of those who need and would avail themselves of the charitable benefits it dispenses. Methodist Old People's Home v. Korzen, 39 Ill.2d 149, 156, 157 (1968).

it.” Methodist Old People's Home v. Korzen, 39 Ill.2d 149, 156, 157 (1968).

Our courts have recognized that the “religious purposes” and charitable” exemptions can be interrelated in certain contexts, such as religious publishing (Inter-Varsity Christian Fellowship of the United States of America v. Hoffman, 62 Ill. App.3d 798 (2nd Dist 1978); Evangelical Teacher Training Association v. Novak, 118 Ill. App.3d 21 (2nd Dist. 1983)) and church-operated resale shops that benefit the needy. First Presbyterian Church of Dixon v. Zehnder, 306 Ill. App. 3d 1114, 1117 (2nd Dist. 1999). However, our courts have yet to extend this interrelationship to the context of parsonages. American National Bank and Trust Company v. Department of Revenue, 242 Ill. App.3d 716 (2nd Dist. 1993); Immanuel Evangelical Lutheran Church of Springfield v. Department of Revenue, 267 Ill. App.3d 678 (4th Dist.1994).

Moreover, the Evangelical Alliance Mission, *supra*, court specifically rejected the Department’s argument that criteria applicable to the charitable exemption should be employed to analyze whether the apartment complex at issue therein was “used exclusively for religious purposes.” Evangelical Alliance Mission, *supra*, at 442-443. Although that court’s analysis of the “general religious purposes exemption statute” is not dispositive of the specific question presented herein, its refusal to apply criteria pertaining to the charitable purposes exemption to a statute of general application is instructive for present purposes.

The statute that controls the outcome of this case is, as noted above, one that contains specific provisions governing the exemption of parsonages. In cases where a

6. The legal definition of “charity” is, for exemption purposes, “a gift to be applied consistently with existing laws, for the benefit of an indefinite number of persons, persuading them to an educational or religious conviction, for their general welfare - or in some way reducing the burdens of government.” Crerar v. Williams, 145 Ill. 625 (1893).

statute containing general provisions and a statute containing specific provisions both address the same subject, the controlling statute is the one that contains specific provisions. Tivoli Enterprises v. Zehnder, *supra*; Illinois Power Company v. Mahin, *supra*. Thus, if the Evangelical Alliance Mission court declined to apply criteria pertaining to the charitable exemption to a statute containing general provisions, then it follows that there is no legal basis for applying those same criteria to the specific provisions that govern the outcome of this case.

Even assuming, *arguendo*, that this were not true, it must be recognized that applicant retains a profound interest in ensuring that the interns whom it entrusts to carry out its youth programming are of sound moral character. Applicant's pastor, Joseph Manahan, testified that applicant is very careful about selecting candidates for its internship program because of "problems where [sic] churches have had with abuse situations ...[.]" (Tr. p. 35). Therefore, in light of recent scandals, public policy would strongly disfavor denying a legitimate youth ministry, such as applicant, a property tax exemption to which it is otherwise lawfully entitled merely because it takes reasonable steps to insure that its interns possess the moral character necessary for their duties.

Based on the above, I conclude that the subject property qualifies for exemption from 2000 real estate taxes under the parsonage provisions set forth in Section 15-40 of the Property Tax Code, 35 **ILCS** 200/1-1, *et seq.*, 15-40. Therefore, the Department's initial determination in this matter should be reversed.

WHEREFORE, for all the aforementioned reasons, it is my recommendation that the of real estate identified by Cook County Parcel Index Number 03-32-226-001 be exempt from 2000 real estate taxes under 35 **ILCS** 200/15-40.

Date: 1/29/2003

Alan I. Marcus
Administrative Law Judge